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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/068,267      | 02/06/2002  | Robert Rusin         | 04645.0943          | 9712             |

7590 05/06/2005

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EXAMINER

BOCKELMAN, MARK

|          |              |
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| ART UNIT | PAPER NUMBER |
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3762

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

***Response to Amendment***

The reply filed on 2-2-2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): It is unclear as to whether applicant is pursuing the same invention as previously examined, or whether some other invention is attempting to be claimed. This appears to be the result of a shift in nomenclature on behalf of applicant. As now claimed, the inventions no longer include the implantable housing assembly as part of the header assembly and in fact the amendments appear to result in the housing and its elements as an intended use. The examiner is at a loss as to how to treat the claims. Contrary to the claim structure, applicant's arguments for patentability seem to indicate that the housing assembly an element that is positively recited as part of the invention and thus the preamble of the claims should recite "An implantable device including an implantable housing assembly and a header assembly..." The examiner requests clarification and requests that the applicant either amend the preamble of the claims to reflect the combination of the housing and header assemblies or clearly indicate that the housing is merely an intended use. The examiner notes that no patentable weight will be given to elements that are not positively recited. The examiner will permit a shift to the combination claim (header -housing) since weight was given to the housing elements being part of the "header assembly" in the first office action. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to

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avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W Bockelman whose telephone number is (571) 272-4941. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272 -4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

April 29, 2005

  
MARK BOCKELMAN  
PATENT EXAMINER